

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC No H301367**

DERICK MADDEN, EMPLOYEE	CLAIMANT
WELSPUN PIPES, INC. EMPLOYER	RESPONDENT
GENERAL CASUALTY CO. OF WI./SEDGWICK CLAIMS MANAGEMENT, CARRIER/TPA	RESPONDENT

OPINION & ORDER FILED 19 MAY 2026

This matter was heard before Administrative Law Judge JayO. Howe in Little Rock, Arkansas, on 13 May 2026.

The *pro se* claimant failed to appear.

Barber Munson, Attorneys at Law, Ms. Karen McKinney, appeared on behalf of the respondents.

STATEMENT OF THE CASE

The hearing record consists of the transcript which includes a Prehearing Order, dated 11 March 2026, that was admitted without objection as Commission's Exhibit No 1. The respondents filed their initial Motion to Dismiss this claim on 17 April 2025. A hearing was held on that motion on 23 July 2025. The claimant appeared and argued against the dismissal of his claim. In an Opinion & Order dated 29 July 2025, the respondents' motion was denied without prejudice.¹ A prehearing telephone conference was subsequently scheduled to discuss how the parties would proceed with the claim.

On 10 March 2026, the parties participated in the prehearing telephone conference. The parties agreed, and the Prehearing Order instructed, that this matter would be heard for a Full Hearing on 13 May 2026. The claimant was advised during the conference that

¹ In accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, that document has been blue-backed to the record and is being served on the parties in conjunction with this Opinion & Order.

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his failure to cooperate in the prehearing discovery process could lead to the respondents renewing their request for a dismissal. That admonishment was included in the Prehearing Order. The Commission has received no correspondence from the claimant since the entry of that Order.

The claimant failed to appear at the Full Hearing scheduled for 13 May 2026. Consequently, the respondents renewed their motion for a dismissal, now seeking a dismissal with prejudice, for the claimant's failure to cooperate in discovery as directed in the Order and for his failure to appear at the hearing to prosecute his claim.

FINDINDGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this matter.
2. The parties were provided with reasonable notice of the Motion to Dismiss that was previously filed in this claim, the notice of the hearing on that motion, the ruling on that motion, and the notice of the full hearing that was set for 13 May 2026.
3. Taking up the respondents' Motion to Dismiss anew, the evidence preponderates that the claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is granted with prejudice.

ORDER

The procedural history of this claim was discussed at the hearing. The respondents' request for a dismissal for the claimant's failure to prosecute his claim was denied without prejudice in the first instance. I clearly explained to the claimant at the first hearing,

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during the phone conference, and in written orders² that his future failure to cooperate in this claim's prosecution could lead to its dismissal.

The Prehearing Order was sent to the claimant following the telephone conference at the address that he confirmed during the conference. According to the respondents' counsel, he has taken no action in furtherance of his claim since agreeing to do so during the telephone conference. My review of the Commission's file similarly reveals no attempt by the claimant to communicate with the Commission or otherwise take any action in his claim.

The claimant has not only failed to cooperate in prehearing discovery after explicitly being advised to do so, but he also failed to appear at the hearing. Despite clear and

² "The parties exchanged up-to-date contact information with the understanding that the claimant would be expected to communicate with the respondents on any outstanding discovery matters... The claimant is again advised that failing to communicate with the respondents may lead to a refiling of their motion for a dismissal." *See* Opinion & Order, 29 July 2025.

"Before the prehearing conference, the respondents noted that the claimant had provided only scant information in his prehearing papers and that he had refused to cooperate in discovery. This was discussed during the conference.

THE CLAIMANT IS ON NOTICE THAT HIS CONTINUED FAILURE TO COOPERATE IN DISCOVERY, TO INCLUDE PROVIDING EXECUTED RELEASE FORMS, ANSWERING WRITTEN INTERROGATORIES, SUBMITTING RELEVANT DOCUMENTS, AND COORDINATING IN ANY REQUESTED DEPOSITION SETTING, MAY RESULT IN THE DISMISSAL OF HIS CLAIM FOR FAILURE TO PROSECUTE AND/OR OTHER SANCTIONS APPROPRIATE UNDER THE RELEVANT RULES AND AUTHORITIES.

The respondents provided via email their discovery requests and releases for the claimant's signature while on the conference call. He shall provide to the respondents, at a minimum, the executed releases within 10 days of the entry of this Order. He shall respond to all other discovery requests to the best of his ability within 21 days of the entry of this Order. He

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repeated directives as to the potential consequences for failing to prosecute his claim, the preponderance of the evidence shows that the claimant has, indeed, failed to prosecute his claim. As of the date of entry for this Order, I have not been made aware of any attempt by the claimant to communicate with the Commission to explain his absence and/or noncompliance with the Prehearing Order. The respondents' request for a dismissal is granted. The Commission possesses the authority to dismiss claims with prejudice. *See Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App. 137, 744 S.W.2d 402 (1988). And for the claimant's failure to cooperate in discovery and failure to appear at the hearing, the respondents seek a dismissal with prejudice. However, this dismissal of the *pro se* claimant's claim is entered *without* prejudice.

IT IS SO ORDERED.

JayO. Howe
Administrative Law Judge

shall remain in contact with the respondents' counsel as is necessary to coordinate completion of the discovery process." *See* Commission's Exhibit № 1 (emphasis in original).